

B. Zimmerman



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Todd Shipyards Corporation

File: B-228449

Date: January 19, 1988

DIGEST

Under invitation for bids (IFB) for drydock and repair of a dredge, contracting agency improperly rejected as nonresponsive a bid which included the notation "no work specified" for one line item since the bidder was obligated to perform the work called for by the line item by another general provision in the IFB, and the "no work specified" notation merely indicated the bidder's position that the specific line item required no additional work beyond that already required by the general provision.

DECISION

Todd Shipyards Corporation protests the rejection of its low bid under invitation for bids (IFB) No. DACW29-87-B-0119 issued by the United States Army Corps of Engineers for dry-docking and repairing a dredge.

We sustain the protest.

The IFB required bidders to individually price over 600 line items. The work covered by each line item was described in corresponding technical provisions in the IFB, one of which, section M-11, concerns work on an oil purification system. The first paragraph of that section provides in pertinent part as follows:

"OVERSIDE DRAGARM OIL PURIFICATION SYSTEM; PORT AND STARBOARD. An oil system provides lubrication and cooling for each 1600hp Electrovator submersible motor. The system is designed to remove debris and moisture from the oil in the motor. . . . Perform all work on the port and starboard units in the presence of the Government Inspector. . . . Clean and paint all new and disturbed surfaces associated with the following items in accordance with items H-35 and

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H-36 [which set out technical specifications for performing cleaning and painting]."
(Emphasis added.)

That paragraph was followed by four subsections (M-11.1 to M-11.4) describing specific work to be performed on different parts of the oil purification system.

The bidding schedule included a space for pricing the initial paragraph of section M-11 as well as each of the four subsections. Instead of price, however, Todd inserted in its bid on the initial paragraph of section M-11 the notation "no work specified." Todd submitted bids on each of the subsections. Based on the failure to price this item, the Navy rejected Todd's low bid of \$5,499,920 as nonresponsive and awarded the contract to the second low bidder, Bethlehem Steel Corporation, at a price of \$5,920,000.

A bid is nonresponsive if it does not offer to perform all of an IFB's requirements, unless a notation such as "no cost" is made which clearly indicates the bidder's intent to provide the requirement at no additional charge. Record Press, Inc., B-225517, Mar. 20, 1987, 87-1 CPD ¶ 321, aff'd on reconsideration, B-225517.2, June 8, 1987, 87-1 CPD ¶ 578. Here, the Corps states that it rejected Todd's bid as nonresponsive because the notation "no work specified" made it unclear whether Todd had agreed to perform the work called for by the first paragraph of section M-11, cleaning and painting of all new and disturbed surfaces on the oil purification system and performance of all the work called for in subsections M-11.1 to M-11.4 in the presence of a government inspector. As discussed below, we find that the "no work specified" notation in Todd's bid was equivalent to an entry of "no cost" and was intended to indicate that Todd regarded the first paragraph of section M-11 as requiring no additional work not already called for by other provisions in the IFB.

Todd argues that the bidders already were required by section SC-6 of the IFB to perform the cleaning and painting of the oil purification system called for by the initial paragraph of section M-11. Section SC-6 is a general provision which required that all new and disturbed work under the contract be cleaned and painted. We agree. The first paragraph of section M-11 thus merely reiterated the general cleaning and painting required by section SC-6 as it applied specifically to the oil purification system. Under these circumstances, we find unreasonable the Air Force's interpretation of the "no work specified" notation in Todd's bid as a refusal on Todd's part to perform the required cleaning and painting on the oil purification system. Rather, we

find that the only reasonable interpretation of the notation is that, in Todd's view, the first paragraph of section M-11 called for no additional cleaning and painting work beyond that Todd already was obligated to perform pursuant to section SC-6. Our conclusion is further supported by the relatively minor nature of the work called for by that paragraph; specifically, the highest price bid by the other bidders for that portion of section M-11 is \$5,800, a small amount relative to the total contract price (over \$5 million).

With regard to the requirement in the first paragraph that the work on the oil purification system be performed in the presence of a government inspector, we do not believe that the Corps intended bidders to separately price this work. In contrast to the cleaning and painting work also called for by that paragraph, the government inspector requirement is not a discrete, independent function which lends itself to separate pricing. Further, in a statement submitted in connection with the protest, the Corps official responsible for drafting the specifications in the IFB stated that the purpose of the first paragraph of section M-11 was to solicit separate prices for the cleaning and painting work only; there is no indication that the price for performing the work on the oil purification system in the presence of a government inspector was to be stated separately. In our view, the only reasonable interpretation is that the first paragraph of section M-11 was intended to advise the bidders that the cost, if any, of performing the work in the presence of a government inspector was one element to be included in their prices for the specific work on the oil purification system listed in subitems M-11.1 through M-11.4.

We therefore find that the Corps improperly rejected Todd's bid as nonresponsive. Accordingly, we sustain the protest and recommend that award be made to Todd as the low responsive bidder, if Todd otherwise is eligible for award.

The protest is sustained.

Milton J. Joster
for Comptroller General
of the United States